



## STATE BOARD OF EQUALIZATION

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DOUGLAS D. BELL  
Executive Secretary

No. 79/175

October 11, 1979

TO COUNTY ASSESSORS:

LIST OF TRANSFERS (1979-80)

Here is another in the series of letters concerning implementation of Article XIII A of the Constitution. These examples of various types of ownership transfers supersede, for the 1979-80 assessment year and thereafter, the material contained in assessors' letter 79/12. This listing incorporates the provisions of Chapter 242 (Assembly Bill 1488) and Chapter 1161 (Assembly Bill 1019) of the Statutes of 1979, and should help to illustrate the new laws regarding ownership change.

This material identifies the action required (whether or not to reappraise) when sample transfer is encountered, cites the appropriate Revenue and Taxation Code Section and/or Property Tax Rule, and includes pertinent clarifying remarks. While this compilation is by no means an all-inclusive list of the types of transfers you will see, we hope it will serve as a general guideline for you and your staff as you process and determine how to handle various transfers.

If you have any questions regarding this, please contact Gene Palmer or Bob Reinhard of our staff. Their number is (916) 445-4982.

Sincerely,

Verne Walton, Chief  
Assessment Standards Division

VW:sk  
Enclosure

26. Transfer of property from person A to person A as trustee naming person A as sole beneficiary.

No Reappraisal

There is no transfer of a present interest or beneficial use. This does not qualify as a trust under California law.

R&T Code Section: 60

Board Rule: 462 (2nd paragraph)

27. Transfer of property from person A to person B, as trustee, naming persons A and C as income beneficiaries; remainder to D.

No reappraisal as long as A remains one of the present beneficiaries

Trust is irrevocable and A, though not sole beneficiary, is a present beneficiary of the trust.

R&T Code Section: 62(d)(1)

Board Rule: 462(h)(1)(A)

a. A dies.

Reappraisal

R&T Code Section: 61(f)

Board Rule: 462(h)

Exception is if C is spouse of A.

R&T Code Section: 63(b)

Board Rule: 462(k)(2)

b. A and C die — property to D.

Reappraisal

R&T Code Section: 61(f)

Board Rule: 462(h)(2)

28. Transfer of property from A and B as joint tenants to A and B as trustees and life beneficiaries of the property; remainder to C.

No Reappraisal

No transfer of a present interest or beneficial use.

R&T Code Section: 61(d)(1)

Board Rule: 462(h)(1)(A)

a. A and B die.

Reappraisal

Termination of precedent interest.

Right of possession vests in C.

R&T Code Section: 61(f)

Board Rule: 462(h)(2)

29. H and W execute a revocable trust, transfer property into it with H and W as trustees and life beneficiaries; remainder to C.

No Reappraisal

No transfer of present interest or beneficial use. Also trust is revocable.

R&T Code Section: 60 and 62(d)(1)(2)

Board Rule: 462(h)(1)(A) and

462(h)(1)(B)

a. Creation

Trusts (Items 22-28 are Irrevocable Trusts)

- |  |  |   |
|--|--|---|
| 21. Transfer of property to a revocable trust.   | No Reappraisal   | R&T Code Section: 62(d)(2)<br>Board Rule: 462(h)(1)(B)<br><br>No reappraisal until trust becomes irrevocable.<br>R&T Code Section: 61(g)<br>Board Rule: 462(h)(3)(A)  |
| 22. Transfer of property from person A to person C as trustee naming persons A and B as beneficiaries.               | No reappraisal as long as A remains one of the present beneficiaries | R&T Code Section: 62(d)(1)<br>Board Rule: 462(h)(1)(a)<br><br>Reappraise per Section 61(f), Board Rule 462(h)(2) and 462(h)(3)  |
| 23. Transfer of property from person A to a trust for the benefit of person B for a term of 12 years reversion to A. | No reappraisal at creation or termination                            | The beneficial interest of other must <u>exceed</u> 12 years to be a change in ownership. ("Clifford Trust")<br>R&T Code Section: 62(d)<br>Board Rule: 462(h)(1)(C) and 462(h)(2)(A)  |
| 24. Transfer of property from person A to person C as trustee naming person B as sole beneficiary.                   | Reappraisal of interest transferred to B                             | R&T Code Section: 61(g)<br>Board Rule: 462(h)(1)<br><br>Except when B is spouse of A.<br>R&T Code Section: 63(a)<br>Board Rule: 462(h)(1)(A), 462(h)(1)(D), and 462(k)(1)   |
| 25. Person A as beneficiary of a trust owning real property assigns his beneficial interest to person B.             | Reappraisal if a present beneficial interest transfers               | R&T Code Section: 60<br>Board Rule: 462(h)(3)(B)<br><br>Except when beneficial interest does not exceed 12 years and property reverts to trustor or when B is spouse of A.<br>R&T Code Section: 62(d) and 63<br>Board Rule: 462(h)(1)(C) and 462(k) |
|  | No reappraisal if a future beneficial interest transfers             | R&T Code Section: 60<br>Board Rule: 462 (2nd paragraph)<br>Reappraise when B receives a present interest, unless interspousal.<br>R&T Code Section: 63<br>Board Rule: 462(k)  |

13. Transfer of real property from a partnership of A and B to A and B as tenants in common.	Reappraisal	R&T Code Section: 61(i) Board Rule: 462(i)  Section 62(a), Board Rule 462(b)(1) does not apply in this situation because partnership is "legal entity" separate from the partners.
14. A and B are partners in the A and B partnership <u>which is a continuing partnership</u> . C is added as a partner.	No Reappraisal	R&T Code Section: 64(a) Board Rule: 462(i)
15. Changing the name of the A and B partnership above to the A, B, C partnership.	No Reappraisal	Board Rule: 462 (2nd paragraph)
16. X and Y are partners in the X and Y partnership. Z is added as a partner <u>and the addition creates a new entity</u> .	Reappraisal	Transfer is from one entity to another. R&T Code Section: 61(i) Board Rule: 462(i)
<u>Corporations</u>		
17. Corporation A transfers property to unrelated Corporation B.	Reappraisal	Transfer is from one entity to another. R&T Code Section: 61(i) Board Rule: 462 (2nd paragraph) and 462(a)
18. Transfers among affiliated groups (and nontaxable corporate reorganization under Internal Revenue Code Section 368).	No Reappraisal	(See definition of "affiliated") R&T Code Section: 64(b) Board Rule: 462(j)(2)
19. Person or "legal entity" obtains control of corporation.	Reappraisal	Control: Purchase sufficient stock to give more than 50 percent of voting stock. R&T Code Section: 64(c) and 25105 Board Rule: 462(j)(1)(B)
20. One corporation obtaining control of affiliated corporation.	No Reappraisal	(See definition of "affiliated") R&T Code Section: 64(b) Board Rule: 462(j)(2)

### Mineral Rights

8. Creation, renewal, sublease, assignment, or other transfer of right to produce or extract oil, gas, or other minerals.

Reappraisal of  
right transferred

Property other than mineral rights not reappraised. Term "for so long as they may be produced in paying quantities."  
R&T Code Section: 61(a)  
Board Rule: 468, 469

9. Transfer of full fee title in the land from one person to another.

Reappraisal of the  
interest transferred

Board Rule: 462(a)  
Except as excluded below or if a total of less than 5 percent undivided interest transfers during an assessment year.  
R&T Code Section: 65(b)  
Board Rule: 462(b)(6)

### Condominiums and Cooperatives

10. Transfer of a unit in a complex with common areas or facilities (i.e., housing co-op, condominium, community apartment project, shopping center, etc.).

Reappraisal of the  
the unit transferred  
and of appurtenant  
common area

Increased values are not to be prorated by the owner to the other units.  
R&T Code Section: 61(h) and 65(c)  
Board Rule: 462(a)

11. Transfer of stock in a housing co-op with possessory right in a specific unit.

Reappraise

Reappraise the unit transferred and any common area appurtenant.  
R&T Code Section: 61(h) and 65(c)  
Board Rule: 462(a) and 462(j)(1)(A)  
See Section 62(i) and Board Rule 462(j)(3) for exclusions.

Increased values are not to be prorated by the owner to the other units.

### Partnerships

12. Transfer of real property from a partnership to a partner.

Reappraise

Property transfers from one entity (the partnership) to another entity (the partner).  
R&T Code Section: 61(i)  
Board Rule: 462(i)

TYPE OF TRANSFER

ACTION REQUIRED

REMARKS - R&T CODE SECTION

Possessory Interest

1. Creation, renewal, sublease, or assignment of a possessory interest.

Reappraisal

Ownership change occurs regardless of length of term.  
R&T Code Section: 61(b)  
Board Rule: 462(d)

Leases

2. Creation of a leasehold interest in taxable real property for a term of 35 years or more.

Reappraisal

Reappraisal of full fee (leasehold and leased fee); term includes renewal option.  
R&T Code Section: 61(c)(1)  
Board Rule: 462(e)(1)

3. Leasehold interest that had an original term of 35 years or more transfers or reverts to lessor.

Reappraisal

Reappraisal of fee; term includes renewal options.  
R&T Code Section: 61(c)(1)  
Board Rule: 462(e)(1)

4. Transfer of a leasehold interest with a remaining term in excess of 35 years.

Reappraisal

Reappraisal of fee; term includes renewal options.  
R&T Code Section: 61(c)(1)  
Board Rule: 462(e)(1)

5. Transfer (other than termination) of a leasehold interest with a remaining term of less than 35 years, to someone other than lessor.

No Reappraisal

Term includes renewal options.  
R&T Code Section: 61(c)  
Board Rule: 462(e)(2)

6. Transfer of a lessor's interest in real property subject to a lease with a remaining term of less than 35 years.

Reappraisal

Reappraisal of fee; term includes renewal options.  
R&T Code Section: 61(c)(2)  
Board Rule: 462(e)(3)

7. Transfer of a lessor's interest in real property subject to a lease with a remaining term of 35 years or more.

No Reappraisal

Includes transfer to lessee; term includes renewal options.  
R&T Code Section: 62(g)  
Board Rule: 462(e)

19/1/12

b. Revocation by H and W.	No Reappraisal	No transfer of present interest or beneficial use (both still held by H and W). R&T Code Section: 60 and 62(d) Board Rule: 462(h)(2)(C)
c. H and W die — C takes property. (Ignore b above.)	Reappraisal	Termination of precedent interest (H and W). Right of possession vests in C. R&T Code Section: 61(f) Board Rule: 462(h)(2)
d. H dies, W revokes trust. (Ignore b and c above.)	No Reappraisal	No present interest transferred. R&T Code Section: 62(d) Board Rule: 462(h)(2)(C)
e. H dies, C dies, with W as sole heir of both. (Ignore b, c, and d above.)	No Reappraisal	C predeceases W, so present interest stays in W as life beneficiary. R&T Code Section: 60
<u>Life Estates</u>		
30. Person A grants title to person B reserving a life estate.	No Reappraisal	A retains present interest and beneficial use. R&T Code Section: 62(e) Board Rule: 462(1)(3)
a. A dies.	Reappraisal	Right of possession vests in B. R&T Code Section: 61(f) and 62(e) Board Rule: 462(1)(3) Except when B is spouse of A R&T Code Section: 63(b) Board Rule: 462(k)(1) and 462(1)(3)
31. Person A grants title to person B for life with remainder to C.	Reappraise when life estate granted	Transfer of present interest and beneficial use. R&T Code Section: 60 Board Rule: 462 (2nd paragraph) Except if B is spouse of A. R&T Code Section: 63 Board Rule: 462(k)

a. B dies — C takes property.	Termination of precedent interest. R&T Code Section: 61(f) and 62(e) Board Rule: 462(1)(3)
	Right to possession vests in C. R&T Code Section: 60
	Except if C is spouse of B. R&T Code Section: 63(b) Board Rule: 462(k)(1) and 462(1)(3)
	Transfer is of fee title. R&T Code Section: 60 and 61(e) Board Rule: 462(a)
	R&T Code Section: 61(e) Board Rule: 462 (2nd paragraph)
Except when interspousal exclusion applies or when interest transferred is less than 5 percent.	R&T Code Section: 63 and 65(b) Board Rule: 462(k) and 462(b)(6)
	"T" now has an undivided $\frac{1}{4}$ interest in common with A, B, and C. R&T Code Section: 61(e) Board Rule: 462(a)
	Transfer of fee title. R&T Code Section: 60 and 61(d) Board Rule: 462(a)
Person A is transferor and a joint tenant after the creation of the joint tenancy.	R&T Code Section: 62(f) Board Rule: 462(b)(2)

Reappraise

Reappraise

Reappraisal of the interest transferred

Reappraise the interest transferred

Reappraise

No Reappraisal

Tenancy in Common

Two or more people acquire property as tenants in common.

A person holding title as a tenant in common transfers his interest to one of the other tenants-in-common.

A, B, C, and D hold title as tenants in common with 25 percent interest each. D sells his interest to T.

Joint Tenancy

A and B acquire property as joint tenants.

Person A owning property in severalty adds person B as a joint tenant.



a. A transfers his interest to C (B and C become tenants in common).

Reappraise 100 percent

Termination of an original transferor's interest in a joint tenancy excluded under Section 62(f), Board Rule 462(b)(2).

Held by original transferor before creation of joint tenancy.

R&T Code Section: 65(a)(1)

b. B transfers his interest back to A.  
(Ignore a above.)

No Reappraisal

Termination of an interest of other than an original transferor in a joint tenancy excluded under Section 62(f), Board Rule 462(b)(2).

The interest reverts to an original transferor so no reappraisal is warranted.

R&T Code Section: 65(a)(2)

Board Rule: 462(b)(5)

A and B own property as joint tenants. They purchased it together from another individual. B dies.

Reappraise the interest transferred 50 percent

Termination of a joint tenancy interest.

R&T Code Section: 61(d)

Board Rule: 462(a)

Section 65(a), Board Rule 462(b) has no bearing because the joint tenancy is not one excluded from reappraisal under Section 62(f), Board Rule 462(b)(2)

A and B as joint tenants sell to H and W (husband and wife) as joint tenants.

Reappraise

Not solely between spouses.

R&T Code Section: 60 and 61(d)

a. H dies.

No Reappraisal

Interspousal exclusion.

R&T Code Section: 63(b) and 63(d)

Board Rule: 462(k)(2) and 462(k)(4)

H and W own property as joint tenants and grant to H, W, S, and D as joint tenants.

No Reappraisal

H and W are transferors and joint tenants.

R&T Code Section: 62(f)

Board Rule: 462(b)(2)

a. H dies.

No Reappraisal

W is still an original transferor.

b. W dies — property goes to S and D.

Reappraise

100 percent — termination of original transferor's interest.  
R&T Code Section: 65(a)(1)

c. S and D grant back to H and W  
(ignore a and b above).

No Reappraisal

Property reverts to original transferors.  
R&T Code Section: 65(a)(2)  
Board Rule: 462(b)(5)

A and B own property as joint tenants  
grant to A, B, C, and D all as joint tenants.

No Reappraisal

A and B are transferors and joint tenants after transfer.  
R&T Code Section: 62(f)  
Board Rule: 462(b)(2)

a. A dies.

No Reappraisal

Vests by operation of law in B, who is original transferor and still joint tenant.  
R&T Code Section: 65(a)(1)  
Board Rule: 462(b)(5)

b. A, B, C, and D grant to B, C, and D  
(ignore a above).

Reappraise 50 percent

Termination of original transferor's interest, but not "by operation of law."  
R&T Code Section: 65(a)(1)

c. B, C, and D grant to B (after either a or b).

No Reappraisal

The interests of C and D were other than original transferors' interests, and reverted to original transferor B.  
R&T Code Section: 65(a)(2)  
Board Rule: 462(b)(5)

. A grants property to A and B as joint tenants.

No Reappraisal

A is transferor and joint tenant after transfer.  
R&T Code Section: 62(f)  
Board Rule: 462(b)(2)

a. A and B as joint tenants grant A and B as equal tenants in common.

Reappraise 50 percent

Same as a transfer from A to A and B as common tenants.  
R&T Code Section: 65(a)(1)  
Board Rule: 462 (2nd paragraph) and 462(a)

There has been a transfer of 50 percent of A's interest in the property. (Section 62(f), Board Rule 462(b)(1) does not apply)

Interspousal

2. Transfer of property between spouses.

No Reappraisal

Change in ownership shall not include any interspousal transfers.  
R&T Code Section: 63  
Board Rule: 462(k)

3. Transfer between ex-spouses in connection with a decree of dissolution of a marriage.

No Reappraisal

Excluded even though parties are ex-spouse  
R&T Code Section: 63(c)  
Board Rule: 462(k)(3)

4. Property is transferred to a trustee for the beneficial use of the spouse of the transferor.

No Reappraisal

Excluded even though transfer is to trustee and not spouse.  
R&T Code Section: 63(a)  
Board Rule: 462(k)(1)

Other Transfers

5. Transfer of fee title from one person to another.

Reappraisal of the interest transferred

R&T Code Section: 60  
Board Rule: 460(a)

6. Any transfer to an existing assessee to perfect or clear title by deed.

No Reappraisal

No present interest transferred.  
R&T Code Section: 60 and 62(b)  
Board Rule: 462(1)(1)(A)

7. Creation or termination of a security interest without right of possession (trust deed or mortgage).

No Reappraisal

R&T Code Section: 62(c)(1)  
Board Rule: 462(1)(1)(B)

8. Substitution of trustee under security or trust instrument.

No Reappraisal

R&T Code Section: 62(c)(2)  
Board Rule: 462(1)(2)

9. A and B are co-owners of a piece of property. The property is then partitioned and A and B then each have equal value parcels owned in severalty.

No Reappraisal

This is a change in the method of holding title with no change in proportional interests (based on value).  
R&T Code Section: 62(a)  
Board Rule: 462(b)(1)

10. A and B are equal co-owners; property is partitioned unequally. (Value of B's portion is 60%, value of A's portion is 40%.)

Reappraise 10% of property.  
Add increment value to B's base year value and decrease same from A's base-year value.

R&T Code Section: 61(e) and 65(b) Board Rule: 462 (2nd paragraph) and 462(a) (Section 62(a), Board Rule 462(b)(1) does not apply with unequal partitions.)

|1-

Title to a property transfers by foreclosure sale with no further right of redemption.

Reappraisal

Fee transfer.

R&T Code Section: 60 and 67

Board Rule: 462(f)(1) and 462(f)(2)

Sale at auction of tax-deeded property.

Reappraisal

Fee transfer.

R&T Code Section: 60 and 67

Board Rule: 462(g)

Change of name.

No Reappraisal

No interest transferred.

Board Rule: 462 (2nd paragraph)

Transfer of bare legal title to person, corporation, or other legal entity.

No Reappraisal

No transfer of equitable title.

Board Rule: 462(1)(1)

R purchases freehold estate from Y.

Reappraise

A purchase is an ownership change.

R&T Code Section: 67 and 65

Board Rule: 462 (2nd paragraph)



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Executive Secretary

No. 80/25

February 19, 1980

TO COUNTY ASSESSORS:

CONCEPTS IN CHANGE IN OWNERSHIP

Assembly Bill 1488 redefines "change in ownership" as follows (Section 60):

"A change in ownership means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the fee interest."

This bill and Assembly Bill 1019, by the addition of certain sections to the Revenue and Taxation Code, make substantial changes regarding not only when an appraisal is, or is not, called for but also what is, or is not, appraised. They call for appraisal of the property or portion thereof transferred (e.g., the transfer of an undivided 1/4 interest in a tenancy in common would require an appraisal of the interest transferred, assuming the transfer is not otherwise excluded).

A change in ownership (exclusions noted) includes the following.

A. POSSESSORY INTERESTS Section 61(b)

The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term. Note that a change in ownership occurs regardless of the length of the term.\*

B. LEASES Section 61(c)

- (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including written renewal options).\*
- (2) The termination of a leasehold interest in taxable real property (where the property leased returns to the lessor) which had an original term of 35 years or more (including written renewal options).\*
- (3) Any transfer of a leasehold interest having a remaining term of 35 years or more (including written renewal options).\*
- (4) The transfer (sale) of the lessor's interest in taxable real property subject to a lease with a remaining term (including written renewal options) of less than 35 years.\*

- (5) When real property subject to a lease changes ownership (as in 1 through 4 above), the entire property is reappraised including leasehold and leased fee.

\*Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change in ownership. For instance, a qualifying lease of one shop in a shopping center requires reappraisal of only the shop.

EXCLUSIONS Section 62(g)

- (1) The transfer (sale) of the lessor's interest in taxable real property subject to a lease with a remaining term of 35 years or more (including renewal options) would not be a change in ownership.
- (2) The transfer of a leasehold interest, to other than the lessor, in taxable real property with a remaining term of less than 35 years would not be a change in ownership.

C. MINERAL RIGHTS Section 61(a)

The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities. The balance of the property, other than mineral rights, shall not be reappraised pursuant to this section. The "term" to be considered is "for so long as they can be produced or extracted in paying quantities."

D. CONDOMINIUMS Section 65(c)

Section 65(c) states "If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised."

This section also provides that when a transfer of one of the above mentioned units results in a reappraisal and an increase in taxes, such increase in taxes shall be applied by the property owner to the new owner of the unit transferred.

E. PARTNERSHIPS Section 61(i)

The transfer of any interest in real property between a partnership and a partner or any other person is a change in ownership. A partnership is treated as a legal entity owning real property; partners own partnership interests only (for purposes of reappraisal) and not any specific real property.

EXCLUSION Section 64(a)

Generally, the addition or deletion of partners is not a change in ownership since all that transfers is the ownership interest in the partnership and not the ownership interest in real property. An exception to this happens when the deletion leaves only one person; in this case, no partnership exists. If there is no continuing clause in the partnership agreement, the addition and deletion of partners creates a new entity and the real property would transfer from the old partnership entity to the new one.

## F. CORPORATIONS Section 64(a)(c)

- (1) Generally, the transfer of corporate stock does not constitute a change in ownership since the transfer is of stock in the legal entity owning the real property. However, a change in ownership does occur when a non-affiliated corporation, partnership, or other entity obtains control of more than 50 percent of the voting stock, exclusive of any shares owned by directors, of another corporation. This is a change in ownership of the real property owned by the corporation in which the controlling interest is obtained, and the change is effective whenever control is obtained.

EXAMPLE: Corporation A purchased 49 percent of the stock in Corporation B one year and 2 percent the following year. A change in ownership occurs when the 2 percent interest transfers. (Corporation A originally owned no stock in Corporation B.) This change in ownership requires reappraisal of the entire property.

- (2) A change in ownership also occurs upon the transfer of stock in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such real property or portion thereof. Only the unit transferred would be appraised.

EXCLUSIONS Section 64(b)(1)(2)

- (1) Any transfer of real property among members of an affiliated group, including corporate reorganization, shall not be a change in ownership.

An "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

- (a) One hundred percent of the voting stock, excluding director-owned shares, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and
- (b) The common parent corporation owns, directly, 100 percent of the voting stock, excluding director-owned shares, of at least one of the corporations.

- (2) Section 62(i) of the California Revenue and Taxation Code excludes from being a change in ownership the transfer of stock or membership certificate in a housing cooperative financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act as amended or financed or assisted pursuant to Section 514, 515, or 516 of the National Housing Act of 1949 or Section 202 of the Housing Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any transfer to a person or family not qualifying for purchase by reason of limited income shall be a change in ownership causing reappraisal.

G. TRUSTS Section 61(f)

- (1) A change in ownership occurs upon the vesting of the right to possession or enjoyment of a remainder or reversionary interest occurring upon the termination of a precedent property interest.
- (2) A change in ownership also occurs when any interest in real property vests in persons other than the trustor (or trustor's spouse) when a revocable trust becomes irrevocable.
- (3) The creation or termination of a trust in which the trustor retains the reversion and in which the interests of others exceeds 12 years duration is a change in ownership. A change occurs both upon creation and upon termination.
- (4) The creation of an irrevocable trust in which the transferor is not a present beneficiary and in which the transferor does not retain the reversion is a change in ownership. (Similarly, the termination of such a trust is also a change in ownership.)

EXAMPLE: John Smith grants real property to an irrevocable trust. John Doe is the present beneficiary of the trust and Jane Citizen is the future beneficiary. A change in ownership occurs when the property is transferred to the trust and when the trust terminates and the property transfers to Jane Citizen.

EXCLUSIONS Section 62(d)

A change in ownership does not occur if:

- (1) The trust is revocable.
- (2) The transferor or the transferor's spouse is a present beneficiary of the trust.
- (3) The transfer is interspousal.



- (4) The transferor retains the reversion and the beneficial interests of others does not exceed 12 years.
- (5) The transfer is from one trust to another and meets any of the requirements of 1 through 4.
- (6) A transfer reserving a life estate or estate for years to the transferor or the transferor's spouse.

H. LIFE ESTATE Section 61(f)

- (1) A change in ownership occurs upon the vesting of the right to possession or enjoyment of a remainder or reversionary interest occurring upon the termination of a life estate.
- (2) If a property owner "reserves" a life estate for himself and/or his spouse, there is no change in ownership upon the reservation of the life estate. If, however, a property owner "grants" a life estate to someone other than his/her spouse, a change in ownership does occur. A change in ownership will also occur when the life estate terminates.

EXCLUSION Section 62(e)

A transfer reserving a life estate or estate for years to the transferor or the transferor's spouse is not a change in ownership.

I. TENANCY IN COMMON Section 61(e)

The creation, transfer, or termination of any tenancy in common interest of 5 percent or more is a change in ownership requiring an appraisal of the interest transferred.

EXCLUSIONS Section 65(b)

- (1) The transfer of an undivided interest of less than 5 percent is not a change in ownership. However, transfers to affiliated transferees during any assessment year shall be accumulated for the purpose of determining the percentage transferred.
- (2) No change in ownership occurs if the transfer is interspousal.
- (3) See also general exclusions.

J. JOINT TENANCY Section 61(d)

- (1) The creation, transfer, or termination of any joint tenancy interest, except as excluded in Section 62(f), 63, and 65, is a change in ownership.
- (2) Section 62(f) states that the creation or transfer of a joint tenancy interest, if the transferor after such creation or transfer is one of the joint tenants, shall not be included as a change in ownership.

- (3) The termination of a joint interest requires reappraisal of the interest transferred from one owner to another except as provided in 4 and 5.
- (4) The termination of an original transferor's interest in a joint tenancy described in 2 above (i.e., 62(f) exclusion) requires reappraisal of the entire portion of the property held by the transferor prior to the creation of the joint tenancy. Assembly Bill 1019 provides that there shall be no reappraisal if the transfer is by operation of law (i.e., death of the original transferor) and there is still an original transferor remaining as a joint tenant.
- (5) The termination of an interest other than an original transferor's interest in a joint tenancy described in 2 above requires reappraisal of the interest transferred except when the interest reverts to an original transferor, or else all remaining joint tenants.
- (6) The only time an original transferor needs determining is when there is the termination of an interest in a joint tenancy which was excluded from reappraisal in a transaction described in Section 62(f).
- (7) A person holding a joint tenancy interest on March 1, 1975 shall be rebuttably presumed to have placed the property in joint tenancy as described in Section 62(e). This presumption does not apply to joint tenancies created after March 1, 1975.

EXCLUSIONS Section 65(a)

- (1) The creation or transfer of a joint tenancy interest where the transferor is one of the joint tenants after the creation or transfer is excluded from being a change in ownership (Section 62(f)).  
Example: A and B grant to A, B, C, and D all as joint tenants (25 percent undivided interest each).
- (2) The termination of an interest of other than an original transferor is not a change in ownership if the interest is returned to an original transferor or to all remaining joint tenants.  
Example: A and B grant to A, B, C, and D all as joint tenants (25 percent undivided interest each). If C's interest transfers to A, B, and D equally (each now has  $33 \frac{1}{3}$  percent), the transfer is excluded from being a change in ownership.
- (3) The termination of an original transferor's interest is not a transfer causing reappraisal if the interest vests by operation of law (death of the original transferor) in whole or in part in a remaining original transferor.  
Example: A and B grant to A, B, C, and D all as joint tenants (25 percent undivided interest each). A dies. A's interest vests by operation of law (his death), in part, in B who is also an original transferor. Therefore, no reappraisal is called for.

- (4) The transfer of a joint tenancy interest between spouses is not a change in ownership.
- (5) See also general exclusions.

K. GENERAL EXCLUSIONS

Change in ownership shall not include the following:

- (1) Any transfer between co-owners resulting in a change in the method of holding title without changing the proportional interests held by the co-owners prior to the transfer. This does not apply to partnership properties. Section 62(a).
- (2) Any transfer for the purpose of perfecting title. Section 62(b).
- (3) The creation, assignment, termination, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession, or profits. Section 62(c).
- (4) The substitution of a trustee under the terms of a security or trust instrument. Section 62(c).
- (5) The transfer of bare legal title. Section 62(c).
- (6) Any interspousal transfer including but not limited to (Section 63):
  - (a) Transfer to a trustee for the beneficial use of a spouse or surviving spouse, or transfer by a trustee of such a trust to a trustor's spouse.
  - (b) Transfer upon death of a spouse.
  - (c) Transfer to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.
- (7) Transfer of a tenancy in common interest of less than 5 percent. However, transfers to affiliated transferees during any assessment year shall be cumulated for the purpose of determining the percentage transferred. Section 65(b).
- (8) The creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in an employee benefit plan. Section 62(h).
- (9) Any contribution of real property to an employee benefit plan. (The terms "employee benefit plan," "participant," and "beneficiary" shall be defined as they are defined in the Employee Retirement Income Security Act of 1974.) Section 62(h).